

HOUSE BILL 3465
By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 55,
Chapter 10, Part 4, relative to the offense of
driving under the influence of an intoxicant and the
punishment for such offense.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-403(c), is amended by
adding the following as a new, appropriately designated subdivision:

(5) For offenders convicted of violating §55-10-401 for the first time, the court shall order that, as a condition of probation, the offender be required to remove litter from state route highways or state-aid highways in accordance with the provisions of subsection (s). When the offender first reports to the offender's probation officer, the probation officer shall provide the offender with a form to be completed by the sheriff of the county where litter removal is to be performed. It is the responsibility of the offender to take the form to the sheriff of the county where the offender will perform litter removal. After completion of the court-ordered number of days of litter removal by the offender and the payment of the supervision fee required by subdivision (s)(3) to the sheriff for participating in the litter removal program, the sheriff shall complete the form and certify that the offender has complied with this condition of probation. The sheriff shall give the completed form to the offender who shall be responsible for returning the form to the offender's probation officer as evidence of completion of this condition of probation. If an offender believes that the offender is incapable of performing such work due to a physical limitation, the offender may request the convicting court to relieve the offender from this condition of probation. The court may require the offender to submit such proof

of physical limitation as it deems appropriate to determine if the offender should be relieved.

SECTION 2. Tennessee Code Annotated, Section 55-10-403(d)(1)(A)(iv), is amended by deleting subdivisions (d) and (e) and substituting instead the following language:

- (d) A scheduled interlock monitoring appointment;
- (e) A court-ordered outpatient alcohol or drug treatment program; and
- (f) A scheduled litter pickup work shift as required under subsection (s).

SECTION 3. Tennessee Code Annotated, Section 55-10-403, is amended by deleting subsection (s) and substituting instead the following:

(s)

(1) In addition to the punishment provided in subsection (a), a person convicted of violating the provisions of §55-10-401 for the first time shall be punished as follows:

(A) If the person is less than twenty-one (21) years of age at the time of the offense, the court shall sentence such person to confinement in the county jail or workhouse for not less than forty-eight (48) hours nor more than eleven (11) months and twenty-nine (29) days and, as a condition of probation, to remove litter during daylight hours from state route highways or state-aid highways as provided in subdivisions (s)(2) – (9) for a period of twenty-four (24) hours. Such period of litter removal shall be served in three (3) shifts of eight (8) consecutive hours each; and

(B) If the person is twenty-one (21) years of age or more at the time of the offense, the court shall sentence the person to confinement in the county jail or workhouse for not less than twenty-four (24) hours nor more than eleven (11) months and twenty-nine (29) days and, as a condition of probation, to remove litter during daylight hours from state route highways or state-aid highways as

provided in subdivisions (s)(2) – (9) of this subsection for a period of twenty-four (24) hours. Such period of litter removal shall be served in three (3) shifts of eight (8) consecutive hours each.

(2) If the offender is a resident of Tennessee, the litter removal portion of the sentence shall occur in the offender's county of residence. If the offender is not a resident of Tennessee, the litter removal portion of the sentence shall occur in the county where the violation occurred.

(3) In order to reimburse the sheriff for costs related to the supervision of the offender while on a litter removal work crew, the offender shall pay to the sheriff a fee equivalent to the jailer's fee for misdemeanants established pursuant to §8-26-105(a) for each day the offender participates in a litter removal program. Such fee must be received by the sheriff before the sheriff may certify that the offender has completed this condition of probation.

(4) Upon request, the sheriff shall provide the offender with a schedule of the times and dates when litter removal crews will be working. Such crews shall only be scheduled to work during daylight hours and only on state route highways or state-aid highways. The sheriff should attempt to provide enough opportunities to work on a litter removal crew that an offender can complete the required three (3) days of litter removal within a ninety (90) day period. Offenders may be worked with other prisoners on litter removal crews organized by the county or a municipality within the county. The offender shall notify the sheriff not less than twenty-four (24) hours in advance of a scheduled work date to indicate that the offender desires to participate. The sheriff, in such sheriff's discretion, may set a maximum number of participants on a work crew and allow participation on a first-come, first-serve basis. The offender is responsible for arranging transportation to and from the work site or other location where the sheriff directs

offenders to report. Except for the vest required by subdivision (s)(5), offenders are also responsible for furnishing their own clothing and food while engaged in litter removal.

(5) Each offender ordered to remove litter pursuant to this subsection (s) shall be required to wear a blaze orange or other distinctively colored vest with the words "I AM A DRUNK DRIVER" stenciled or otherwise written on the back of such vest in letters no less than four inches (4") in height.

(6) It shall be within the discretion of the sheriff to select the state route highways or state-aid highways from which such offenders remove litter. If the highway selected is a state route highway, the department of transportation shall provide a truck or trucks to remove the litter removed by such offenders. If the highway selected is a state-aid highway, the appropriate county shall provide a truck or trucks to remove the litter removed by such offenders.

(7) The sheriff may enter into agreements with any city or municipality located within such county whereby offenders sentenced pursuant to this section may be used to remove litter from state route highways or state-aid highways located within the limits of such city or municipality. The agreement may provide that the city or municipality assume responsibility for the supervision and control of the offenders.

(8) If any entity receives funds under §41-2-123(c), the offenders shall be the responsibility of the entity supervising that program and under that entity's supervision and control. In any county where that is the case, the term "sheriff," as used in this subsection (s), shall be interpreted instead to mean the individual or department head in charge of such alternative program.

(9) No sheriff shall be permitted to use an offender sentenced pursuant to this subdivision (s) to perform any task other than litter removal.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, then all provisions and applications of this act are declared to be invalid and void and the law in effect prior to enactment of 2005 Public Chapter 504 shall remain in full force and effect.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.